

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

FILED  
IN CLERKS OFFICE  
2003 DEC 29 P 12:40  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

\_\_\_\_\_  
TRACY A. SMITH  
Plaintiff,  
v.  
UNITED RENTALS, INC.  
Defendant.  
\_\_\_\_\_

Civil Action No. 03-12519GAO

Answer to Complaint

Defendant United Rentals, Inc. (the “Defendant” or “United Rentals”) hereby responds to the numbered paragraphs of Plaintiff Tracy A. Smith’s (the “Plaintiff” or “Smith”) Complaint as follows:

Preliminary Statement

1. United Rentals is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 1.

Jurisdiction

2. United Rentals is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 2.

3. United Rentals is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 3.

**Venue**

4. United Rentals is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 4. United Rentals further states that Paragraph contains legal conclusions to which no response is required.

**Parties**

5. United Rentals is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 5.

6. United Rentals admits that is a foreign corporation authorized to do business in Massachusetts and denies the remaining allegations set forth in Paragraph 6.

**Facts**

7. Admitted.

8. United Rentals admits that Plaintiff was employed from March 18, 2003 to October 7, 2003, but denies the remaining allegations set forth in Paragraph 8.

9. Denied.

10. Denied.

11. Admitted.

12. Denied.

13. United Rentals is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 13.

14. United Rentals is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 14.

15. United Rentals admits that Plaintiff and Chip A. Locketti ("Locketti") discussed this, but denies the remaining allegations set forth in Paragraph 15.

16. Denied.

17. United Rentals is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 17.

18. United Rentals admits that Lori Watson received the letter and is without knowledge or information sufficient to form a belief as to the truth of whether or not Smith was upset by Locketti's letter. Further answering United Rentals states that Plaintiff and Lori Watson had previously discussed Locketti's behavior.

19. United Rentals admits that Plaintiff met with Craig Schmidt, that Schmidt said he would investigate Plaintiff's allegations and gave her a day off with pay. Further answering, United Rentals denies the remaining allegations in paragraph 19.

20. Denied.

21. United Rentals admits that Plaintiff met with Steve Oddo and Lori Watson within a week of raising her allegations and among other things Oddo stated that he was investigating the matter.

22. Admitted.

23. United Rentals admits that Plaintiff was moved from her desk inside the same office with Locketti to an office in a trailer for approximately one week and then Plaintiff was moved to a desk adjacent to Craig Schmidt's office.

24. United Rentals admits that Plaintiff's employment ended on October 7, 2003 following a meeting with Plaintiff's supervisor Diane Mendes and denies the remaining allegations in paragraph 24.

25. United Rentals admits that among other legitimate non-discriminatory and non-retaliatory reasons, Plaintiff was told by Diane Mendes that her employment was ended for discussing confidential information in the office.

26. Denied.

**Count I**

27. No Response is required.

28. Denied.

**Count II**

29. No Response is required.

30. Denied.

**Count III**

31. No Response is required.

32. Denied.

**Affirmative Defenses**

**FIRST AFFIRMATIVE DEFENSE**

The Plaintiff has failed to exhaust her administrative remedies with respect to the Defendant.

**SECOND AFFIRMATIVE DEFENSE**

The Plaintiff has failed to mitigate her damages.

**THIRD AFFIRMATIVE DEFENSE**

The Plaintiff has failed to state a claim upon which relief can be granted.

**FOURTH AFFIRMATIVE DEFENSE**

The Defendant asserts the defense of waiver.

**FIFTH AFFIRMATIVE DEFENSE**

The Defendant asserts the defense of estoppel.

**SIXTH AFFIRMATIVE DEFENSE**

The Plaintiff's claims are barred by the applicable statutes of limitations.

**SEVENTH AFFIRMATIVE DEFENSE**

The Defendant had a sexual harassment policy and followed it.

**EIGHTH AFFIRMATIVE DEFENSE**

The Defendant took appropriate corrective actions and acted in good faith.

**NINTH AFFIRMATIVE DEFENSE**

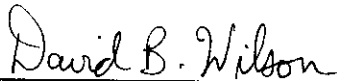
Plaintiff's termination was not retaliatory, but was based on legitimate non-discriminatory reasons.

**TENTH AFFIRMATIVE DEFENSE**

Plaintiff's own acts and deeds bar her claims against Defendant.

**DEFENDANT, UNITED RENTALS, INC.**

By its attorneys,



David B. Wilson, BBO# 548359

Al Harmon, BBO# 655832

ROBINSON & COLE LLP

One Boston Place

Boston, MA 02108-4404

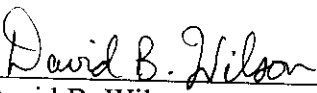
Tel 617-557-5900

Date: December 24, 2003

**CERTIFICATE OF SERVICE**

I hereby certify that on December 24, 2003, I served a true copy of the foregoing document via first-class mail, postage prepaid, upon the following:

Kevin B. Callanan, Esq.  
17 Accord Park Drive  
Norwell, MA 02066

  
\_\_\_\_\_  
David B. Wilson

ROBINSON & COLE<sup>LLP</sup>

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U.S. DISTRICT COURT  
DISTRICT OF MASS.

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Also admitted in New Hampshire

December 24, 2003

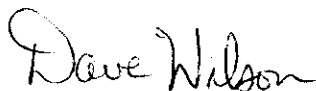
Civil Clerk' Office  
U.S. District Court  
One Courthosue Way, #2300  
Boston, Massachusetts 02210

Re: *Tracey A. Smith v. United Rentals, Inc.*  
U.S. District Court Civil Action No. 03-12519-GAO

Dear Sir/Madam:

Enclosed for filing and entry upon the docket please find defendant United Rentals, Inc.'s Answer to the Complaint in the above-referenced matter. Thank you.

Very truly yours,



David B. Wilson  
DBW:rh-Enc.  
cc: Kevin B. Callanan, Esq.



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